UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,575	08/26/2003	Douglas D. LeClear	US20020143	4098

173 7590 06/14/2006

WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH, MI 49085

EXAMINER	
TILL, TERRENCE R	

ART UNIT	PAPER NUMBER
1744	

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/648,575	LECLEAR ET AL.	
	Examiner	Art Unit	
	Terrence R. Till	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 April 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11,13-16,18 and 21-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *13-16,18 and 21-23* is/are allowed.

6)☒ Claim(s) *1-5 and 7-9* is/are rejected.

7)☒ Claim(s) *6,10 and 11* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 April 0406* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3 and 5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over French patent to Laurent '474 in view of German patent to Schollmayer '025.

5. The patent to Laurent discloses (figs. 5-11) vacuum system for a vehicle comprising: a hose storage module 17 having a storage space and adapted to house a retractable vacuum hose 7 on a storage reel; a vacuum canister 18 fluidly connected to an end of the vacuum hose. Laurent does not disclose a vacuum console that has a pivotal and slidable cover in the shape of a vehicle seat. The German patent Schollmayer discloses a vacuum console 9 adapted to house a vacuum nozzle and having a pivotal and slidable cover (back of seat folded down- see figure 2) in the shape of a vehicle seat (the seat back). The hose storage module being positioned within the vehicle and configured to allow the retractable hose to reach any portion of the interior space of the vehicle. Schollmayer also discloses (see English abstract) that it is a battery operated cleaner. It would have been obvious to a person skilled in the art at the time the invention was made to provide Laurent with a console in view of the teaching of Schollmayer in order to be able to access the hose as well as hide it when not in use. Further, It would have been obvious to a person skilled in the art at the time the invention was made to provide Laurent with a battery in view of the teaching of Schollmayer so as to provide a power source for the vacuum motor. With respect to the recitation that it is a rechargeable deep draw battery, Schollmayer does not say what kind of battery it is. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a rechargeable deep draw battery, since it is considered to be within the general skill of a worker in the art to select a rechargeable battery on the basis of its suitability for the intended use as a matter of obvious engineering choice.

6. Claims 4 and 7-9, stand rejected under 35 U.S.C. 103(a) as being unpatentable over French patent to Laurent '474, as modified by German patent to Schollmayer '025, as applied to claim 1 above, and further in view of Harrelson '058.

7. Laurent '474, as modified by Schollmayer '025, does not disclose the nozzle comprising a handle portion and a suction portion, the handle portion being configured with a first switch being electrically connected to a vacuum motor to operate the vacuum and a second switch being electrically connected to the hose storage module to operate a motorized extension and retraction of the hose. The patent to Harrelson discloses a vacuum system comprising: a hose storage module 17 adapted to house a retractable vacuum hose having a first end and a second end; a handle portion 38 and a suction portion 44, the handle portion being configured with a first switch 112 being electrically connected to a vacuum motor to operate the vacuum and a second switch 110 being electrically connected to the hose storage module to operate a motorized extension and retraction of the hose. The electrical connections are made by electrical wiring that runs along the hose and is connected to a wiring module. It would have been obvious to a person skilled in the art at the time the invention was made to provide Laurent, as modified by Schollmayer, a handle portion being configured with a first switch being electrically connected to a vacuum motor to operate the vacuum and a second switch being electrically connected to the hose storage module in view of the teaching of Harrelson in order to automate the vacuum operation as well as eliminate any mechanical failure of spring-wound hose reel.

Allowable Subject Matter

8. Claims 6, 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 13-16, 18 and 21-23 are allowed.

10. The following is an examiner's statement of reasons for allowance: With respect to claim 22, the prior art does not disclose nor render obvious the claimed combination of subject matter, particularly a storage area located in the interior space behind the rear seat, a cleaning system located in the storage area, a vacuum canister fixedly mounted to the vehicle and configured to draw a vacuum in the canister, a cleaning solution tank for holding carpet and upholstery cleaning solution and a conduit extending from the cleaning solution tank to a spray nozzle for dispensing cleaning solution from the cleaning solution tank. All of the prior art that meet the limitations of a vacuum cleaner installed in an interior space behind the rear seat are "Dry"-type suction cleaners that have no accommodation for wet extraction- nor could they be modified to do so.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

11. Applicant's arguments filed 4/4/06 have been fully considered but they are not persuasive.

12. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5

USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Laurent teaches all the structure of a car vacuum and Schollmayer is relied upon to demonstrate how one can hide the vacuum cleaner behind a seat for reasons of functionality and aesthetics.

13. In response to applicant's argument that Laurent and Schollmayer teach two antithetical concepts- one having a retractable hose and the other having a detachable hose attach to the vacuum inlet, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

14. With respect to applicant's argument that "console" does not read on the claimed limitations, as defined by the specification, applicant is reminded that the "Patent and Trademark Office is not required to interpret claims in patent applications in the same manner as courts interpret claims during infringement suits, and is instead permitted to give claim language its broadest reasonable interpretation", In re Morris, 43 USPQ2d 1753, (Fed. Cir. 1997), In re Zletz, 893 F.2d 319, 13 USPQ 2d 1320 (Fed. Cir. 1989), In re Yamamoto 740 F.2d 1569, 222 USPQ 934 (Fed. Cir 1984). The term "console" is not so specific as to preclude the seat elements or Schollmayer.

15. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the combination would not teach stowing the nozzle in the opening of the seat behind the armrest.)

are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

16. In response to applicant's argument that Harrelson is nonanalogous art as it is not a vacuum console that houses a vacuum nozzle, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Harrelson teaches a different mechanism for retracting the hose. The examiner substituted one hose retraction mechanism (Laurent's) for another (Harrelson's).

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys P. Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Terrence R. Till
Primary Examiner
Art Unit 1744

trt